

**MINUTES**

**OF THE**

**DECEMBER 13, 2018 REGULAR BUSINESS MEETING**



**OF THE**

**OKLAHOMA WORKERS' COMPENSATION COMMISSION**

**STATEMENT OF OKLAHOMA OPEN MEETING ACT COMPLIANCE**

Notice of this Regular Meeting was filed with the Secretary of State's office on Monday, November 13, 2017 at 9:05 a.m., in compliance with the Open Meeting Act.

The agenda was posted at least 24 hours in advance of the meeting, in compliance with the Open Meeting Act. It was posted on the Commission website and at 1915 N. Stiles Ave., Oklahoma City, Oklahoma, the Commission's principal office.

**MINUTES OF THE DECEMBER 13, 2018 REGULAR BUSINESS MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION**

The members of the Oklahoma Workers' Compensation Commission met at 1915 N. Stiles Ave., 2<sup>nd</sup> floor, Oklahoma City, Oklahoma, on December 13, 2018.

Members present: Chairman Mark Liotta and Commissioner Jordan Russell.

Members Absent: Commissioner Megan Tilly.

Others Present: Executive Director Hopper Smith, WCC; Sarah Greenwalt, WCC; Dana Esparza, WCC; Collin Fowler, WCC; Dr. Jay Cannon, WCC; Eric Russell, WCC; David Oakley, LegisOK; V. Christopher Sternum, OK Health Care Association and James Lawson, WCC.

Chairman Liotta expressed appreciation for those in attendance. After the roll was taken, he announced the presence of a quorum. The meeting was called to order at approximately 1:30 p.m.

**1. Approval of Minutes**

Chairman Liotta presented the minutes of the November 15, 2018 and December 7, 2018, public meetings for approval.

**Motion:** Commissioner Russell moved to approve the minutes of the November 15, 2018 and December 7, 2018, public meetings.

**Second:** Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Russell,.

**The motion carried.**

**2. Proposed Opening of the Permanent Rulemaking Process to Consider Amendments to the Commission's Permanent Rules**

The Commission considered opening the Permanent Rulemaking process for amendments to the Commission's Permanent Rules. If proposed Permanent Rules are adopted and submitted for legislative review on or before April 1, 2019, the Legislature will have until the end of the 2019 legislative session to approve or disapprove the rules.

Sarah Greenwalt was recognized, reported, and responded to questions of the Commissioners.

***Motion:*** Commissioner Russell moved to open the Permanent Rule Making Process.

***Second:*** Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Russell

***The motion carried.***

**3. Consent Agenda for Travel Vouchers Currently Outstanding:**

Title 85A O.S. § 23 states that any Commissioner or employee of the Commission shall be entitled to receive his or her necessary traveling expenses as provided in the State Travel Reimbursement Act. The expenses shall be certified by the person who incurred them and shall be allowed and paid on presentation of vouchers approved by the Commission. In accordance with this section, the Commission considered a vote to approve the currently outstanding vouchers. All vouchers listed within the Consent Agenda were made available to each Commissioner prior to the meeting, are considered routine, and were enacted by one motion of the Commission.

***Motion:*** Commissioner Russell moved to approve the travel vouchers as presented.

***Second:*** Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Russell

***The motion carried.***

**4. Proposed Approval of Independent Medical Examiners for the Commission**

Title 85A O.S., § 112 requires the Workers' Compensation Commission to create, maintain and review a list of licensed physicians who shall serve as independent medical examiners (IME). The Commission shall, to the best of its ability, include the most experienced and competent physicians in the specific fields of expertise utilized most often in the treatment of injured workers. The period of qualification for physicians shall be two (2) years.

The Commission considered approving the list of physicians presented at the meeting by the Medical Director, who recommended to approve the applications.

Dr. Cannon was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to approve the Independent Medical Examiners.

**Second:** Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Russell

**The motion carried.**

#### **5. Proposed Approval of Medical Case Managers for the Commission**

Section 113 of title of 85A requires a list of qualified case managers be developed, maintained and periodically reviewed by the Commission. The period of qualification for case managers is two (2) years.

The Commission considered approving the list of case managers presented at the meeting by the Medical Director, who recommended to approve the applications.

Dr. Cannon was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to approve the Medical Case Managers.

**Second:** Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Russell

**The motion carried.**

#### **6. Discussion and Consideration of Distribution of Surplus Monies to Members of the Oklahoma Health Care Association (#75175)**

Oklahoma Health Care Association, a group self-insurance association, requested a partial distribution of surplus monies back to its members in the amount of \$1,000,000 which will be payable from the following three fiscal fund years ending on June 30th: FY 15 (\$200,000), FY 17 (\$500,000), and FY 18 (\$300,000).

Commission Rule 810:25-11-10 states that any surplus monies may be declared refundable by the association's board. The date and manner of the distribution shall be declared by the association's board and shall be in accordance with the association's bylaws. The board shall submit the distribution request to the Commission, with all supporting documents. The Commission considered approving the distribution of surplus monies to members of the Oklahoma Health Care Association.

James Lawson was recognized, reported, gave his recommendation and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to approve the distribution to members of the Oklahoma Health Care Association as recommended.

**Second:** Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Russell

**The motion carried.**

**7. Discussion and Consideration of Reducing or Releasing the Security Deposit of HealthSouth Corporation, a Former Own Risk Employer Permit #18181**

A security deposit posted with the Commission as required by 810:25-9-4 must remain in place, at its existing amount, for two years after an individual own risk employer voluntarily leaves self-insurance. A security deposit may be reduced at the Commission's discretion after the two year waiting period upon application by the employer and submission of current financial statements and workers' compensation loss runs.

The Commission considered reducing or releasing the security deposit of HealthSouth Corporation, a former own risk employer.

James Lawson was recognized, reported, gave his recommendation and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to approve releasing the Security Deposit of HealthSouth as recommended.

**Second:** Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Russell

**The motion carried.**

## **8. Discussion and Consideration of Current Commission Policies**

The Commission discussed and considered the following current Commission policy to determine whether any updates were necessary: (1) WCC-10 Work Related Injury or Illness Policy.

Collin Fowler was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to approve the Work Related Injury or Illness Policy as presented.

**Second:** Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Russell

**The motion carried.**

## **9. Discussion and Consideration of Adoption of Proposed Commission Forms**

The Commission proposed changes to its current forms, including the CC-Form 36 Affidavit of Exempt Status, Certificate to Joint Petition, Copier Charge Account Maintenance Form, and the Online Attorney Leave Request Form. The Commission also considered the adoption of a new Online Attorney Mailing and Email Address Change Form. On November 7, 2018, the Commission issued an alert notifying the public of its intent to change its forms. The Commission's comment period ran from November 7, 2018 through December 7, 2018. The Commission solicited comments from the public, including comments via email at [rules@wcc.ok.gov](mailto:rules@wcc.ok.gov). The Commission held a public hearing on the proposed forms on December 7, 2018.

Sarah Greenwalt was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to approve the Affidavit of Exempt Status as modified.

**Second:** Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Russell

**The motion carried.**

**Motion:** Commissioner Russell moved to approve the Certificate to Joint Petition, Copier Charge Account Maintenance Form, the Online Attorney Leave Request Form and the Online Attorney Mailing and Email Address Change Form.

**Second:** Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Russell

**The motion carried.**

**9. Announcements**

The Commission's next regularly scheduled business meeting is on January 10, 2019. The Commission's next regularly scheduled appeals meeting is on February 1, 2019.

Congratulations to Commissioner Tilly on the birth of James Tilly.

**ADJOURNMENT.....Chairman Mark Liotta**

**Motion:** Commissioner Russell moved adjourn.

**Second:** Chairman Liotta.

Those voting aye: Chairman Liotta and Commissioner Russell

**The motion carried. The meeting adjourned.**